

Lesson 4 - Interacting with Social Security



As a disability advocate, you'll routinely interact with SSA personnel. Having been an SSA employee, I know how these folks want to be treated. SSA's huge bureaucracy can be hard to deal with, but remember that it is in reality a tangled network of people just like you and I. Although all SSA offices are supposed to follow the same rules, there can be enormous differences in how each office interacts with claimant's and their representatives.

To avoid frustration, learn how your local DO, DDS and Regional offices work. The quickest way to learn how an office works is to represent a local client. In this instance, you'll interact with the DO and DDS on a number of issues, allowing you to adapt to their methods.

You'll contact SSA to become authorized at the beginning of every case. After authorization, communication can be good, fair or poor depending on the office. Your client's local DO is responsible for compiling and processing initial applications. If a decision cannot be made at the DO, the case is usually sent to the state DDS for further processing. A DDS Examiner handles the case at this level and with the assistance of a medical professional, will make the initial determination.

Create a positive relationship with the DDS Examiner and your career as an Advocate will be much smoother. Although the Examiner cannot make a case decision alone, these professional clerks control much of the access to case materials.

Motivating the DDS Examiner

When working with an Examiner or any other SSA employee, you should use the WIIFM (what's in it for me) principle. To motivate a DDS Examiners to cooperate with you, you must understand what's in it for the examiner.

So what's in it for the Examiner?

In most states, a DDS Examiner is a State employee with a Federal regulated job. The Feds impose performance standards on the examiner and the State Administrator enforces them. These standards are very tough, making it hard for the average Examiner to survive in the system.

Federal case processing standards are critical to Examiner promotions. An examiner must be able to handle a sizable caseload and complete cases within a set timeframe. The examiner must also meet case accuracy and avoid case processing errors. Examiner

performance standards rise with rank. The higher an Examiner's rank, the higher the performance requirements. If the examiner misses his performance standard for two consecutive six-month periods, he/she can be demoted or dismissed. This really puts a lot of pressure on the DDS examiner but it also creates an opportunity for advocates who are aware of this circumstance.

The Primary Examiner standards are:

Case Processing Time.

Number of cases completed within a certain period.

Types of cases completed within a certain period.

Accuracy of case decisions.

One of the factors that negatively affect an Examiner's case processing time is the use of old technology like snail mail. Case processing time is also delayed when waiting for SSA to receive necessary documents. Anything you do to help the Examiner to acquire evidence will result in both a happy Examiner and a more rapid case decision. Helping the examiner is a win-win situation for both the examiner and the advocate!

SSA is in the process of modernization. You can now receive digitally formatted evidence on CD or exchange data using SSA's Electronic Record Exchange (ERE) system. Although SSA's modernizations make acquiring evidence easier, getting information from a source is still cumbersome. Anything you can do to help the Examiner acquire evidence will be good for your client and the SSA employee.

Once the Examiner has acquired all case documentation, he/she goes through the same Sequential Analysis steps that you do to process a case. The faster the examiner completes the case, the better chance he has of keeping his job. If possible, try to befriend as many examiners as possible. Let him know that you're willing to do whatever is required to help him move the case forward.

Do not ask the Examiner for special favors, as this might appear to be a conflict of interest.

This is not a *quid pro quo* situation. You are being a responsible advocate who is helping an overworked public servant do his/her job. If you become a willing and honest assistant to the Examiner, he/she will cooperate with you in subtle but valuable ways.

Informing SSA of Your Authorized Representative

To become the authorized representative, send a signed copy of the SSA Form 1695 Authorization to Represent Form to the client's local DO, DDS or Regional Office, depending on case level. If you're unsure where to send the form, the client's local DO is your best bet.

The office closest to the applicant is usually the one that processes the case.

When SSA receives the completed authorization to represent form, they'll date stamp it and place it in the applicant's folder. SSA is supposed to send you a date-stamped copy, but this doesn't always happen. Make a copy of the signed 1696 before sending it to SSA as proof it exists. If you and the claimant make application together, you'll have an opportunity to submit 1696 during the application. With an online application, you or the claimant can inform SSA that the claimant has or intends to hire a representative.

If the claimant applies online, there are built-in forms that are processed through a central location and distributed to the appropriate DOs. The DO then sends copies to the claimant for signature and requests that he return the signed copies. You can also request forms when you send in your 1696 announcing your authorization to represent. It's not always obvious what case level the case is on. You can determine this during the client interview by asking these questions:

- Have you ever applied for SSA disability benefits?
- Did you receive a letter indicating a decision in your case?
- If so, can you provide a copy of the decision letter?
- What was the reason for the denial decision?
- Have you appealed the previous decision?

If you still aren't sure of the client's case level, ask SSA once they receive your 1696. If a claimant has been denied within the last two months, he/she is eligible for an appeal. You and/or the claimant must apply for an appeal **within sixty days** of the denial decision.

Representative Transfer:

On occasion, a claimant will already have a representative. Generally if this has occurred, you should **not** accept the case. If for some reason you want to take the case, you must make sure that the relationship between the prior representative has been formally terminated. This is the claimant's responsibility. The claimant can initiate a rep transfer by following the instructions below:

Example: Jessie James was represented by XYZ law firm on the initial application. Mr. James is dissatisfied with XYZ's work. XYZ represented the client on the initial level. He wants you to take over the case. What do you do?

1. Instruct Mr. James to contact both SSA and XYZ in writing, asking that the representative relationship be terminated. He should also ask that XYZ respond in writing so that a copy of this letter can be sent to you and SSA.
2. Make sure Mr. James doesn't mention you in the request for termination. There is no need for the client to mention you in his request. You have nothing to do with the case until

XYZ's contract is formally terminated.

3. Be sure the relationship has officially ended and that you have written proof before accepting the case.

First Correspondence

Now let's turn our attention to SSA contact correspondence. The usual case materials are sent to the DDS, DOD or a Hearings Division depending on the case level. Send a:

- A cover letter on your letterhead explaining your position in the case.
- A signed SSA Form 1696.
- Multiple signed copies of the client's Medical Release Form.
- Copies of any medical or vocational evidence in your possession.

If you have copies of evidence and can immediately create an argument, include your Formal Argument with a summary of the key supportive evidence.

Cover Letter: Use your cover letter to:

1. Introduce yourself to SSA.
2. Explain the reason for the contact.
3. Announce your appointment as the authorized representative.
4. Inform SSA of any special case issues.
5. Request copies of evidence from SSA.
6. Send copies of evidence to SSA.

See the sample Letters in Module One of the course syllabus.

Appeal Request: More and more cases are being processed online. However, you can still use form 561 Request for Reconsideration or you can send a letter requesting a reconsideration. If you send a letter to SSA requesting a first appeal, you'll need a client signed copy of the SSA form 561.

In the body of your Reconsideration Request Form or letter ask for a copy of your client's Personalized Denial Notice (PDN) or Technical Rationale. Also ask for a copy of all available evidence of record. If there's any new or additional evidence since the last decision, you'll need to inform SSA and/or request this material yourself.

Common Social Security Forms

Forms are your primary method of official communication with SSA. Disability Associates provides a link to commonly used SSA forms in Olivia and your training syllabus. The

following is a short list of forms you will use on various adjudicative levels:

- SSA-Form F16 - Initial Application Form: Used to initiate an application at the initial case level.
 - SSA-Form 1696 - Appointment of Representative: Used to authorize a representative at all adjudicative levels.
 - SSA-Form 827 - Authorization to Disclose Information: This is your generic medical release form.
 - SSA-Form 3288 - Consent to Release Information: Allows you access to medical forms on all adjudicative levels.
 - SSA-Form 3441: Used at the Reconsideration Appeal Level to request new or additional evidence and to document new allegations.
 - SSA-4268-U4: This is the Personalized Decision Notice that is created by the Examiner or Hearings Officer who adjudicated the case. This form will explain the reason for the case denial.
 - SSA-Form 561 – Use this form to request a Reconsideration Appeal.
 - SSA-Form 3368: This is the adult disability report form that SSA uses at the Initial Level. Completed by the claimant, it lists his/her medical allegations and medical sources.
- SSA Form 3369: The claimant fills out this vocational report/work history form as part of the initial application. The form is placed into the claimant's folder and is used in case processing. You'll need either a copy of this form or the information it contains to evaluate the claimant's past work history.
 - SSA-Form 831-U5: The 831 is an SSA form that DDS Examiners use to code case decisions at the time of adjudication. These codes make it easier for SSA employees to process the case internally. We sometimes request this form because it contains specific coded information that provides important information. Since few advocates know how to read this form, SSA will consider your request for it to be puzzling. If you know how to read it, this form gives the case type, DLI date if applicable, primary diagnosis, reason for prior decision and the adjudicative case level at a single glance.

Medical Evidence of Record

When you request medical evidence of record, be careful what you ask for. Regardless of source, if you are careless about your request you could be inundated with useless paperwork. Be very specific in your request letter about which items you need. Wherever possible, request all medical evidence from x-date to y-date. You can also request a copy of

a specific report dated X and addressing a specific issue like a pathology report.

Here is a short list of common medical evidence that you'll want to request:

- Doctors' reports
- Nurses' notes
- Psychological examination reports
- Consultative examination reports
- Hospital admission and discharge summary reports
- Surgical summary reports
- X-ray reports
- Diagnostic test reports

Ask for medical evidence from the onset date to the most current date. Don't request evidence dated more than a few months prior to the onset date unless it definitively proves the impairment's existence.

Example: Alice has cancer so you would request the pathology report dated and all evidence of treatment. Evidence collected outside of the impairment period is generally useless. Evidence unrelated to the primary or secondary diagnoses is irrelevant. For more information about recognizing appropriate medical evidence in a disability claim, revisit Study Guide Lesson Four. Recall that the Merck Manual can help you recognize what evidence is appropriate given the diagnosis.

Taking a Case at the Initial Level

We use to discourage our students from taking cases at the Initial Level, but things have changed. Taking a case on the initial level can be a useful strategy. It allows you to design a strategy before the naive applicant has a chance to put inappropriate statements or evidence into the official record. Sometimes you can acquire the claimant's evidence before SSA. This gives you the opportunity to verify the allegations, limitations and onset date while screening out extraneous data. Send only the definitive evidence to SSA that can make the DDS Examiner's job much easier and cut months off decision time.

In states that have a special DO case expediting team, your careful screening can reduce processing time to weeks instead of months. If your DO doesn't have an expediting team, they will send the case on to the DDS for Case Development and a decision.

Assisting at the Initial level helps SSA fulfill its purpose by removing major case-processing bottleneck. It takes a little more work, but the benefits you derive can be extremely helpful to a case.

Note: Be sure to carefully interview potential clients and carefully assess the cases before

accepting them. Otherwise, you could spend a lot of time expediting losing cases.

Initial Adjudication Revisited

The typical sequence of events in an Initial Level case is:

1. SSA requests all medical evidence, reviews it and makes a decision. As the representative, you may have several interactions with the Examiner during this process. Again, if you can help the examiner expedite the case, do so!
2. The Examiner makes a decision with the aid of a medical and vocational staff professional. Regardless of outcome, the case returns to the local DO who sends out the decision notice to both you and the applicant.
3. If the case is allowed, submit your Fee Petition and Attachment to SSA and bill the client. If you are certified, you can skip the client billing process. You can generate a Fee Petition Attachment and Client Invoice automatically from your Olivia Prime software. If the case is denied, begin the appeal process.

Reconsideration or First Appeal

Accepting a case at the Reconsideration Appeal Level involves many of the same interactions with SSA as at the Initial Level. However, Case Development is typically a lot easier because SSA has already collected most of the available evidence. If the case is new to you at the Reconsideration Level, perform the same interview, assessment and review as you would at the Initial Level.

It's not unusual for a claimant to have already applied for appeal before seeking your services. If he/she has applied but has not gotten a decision, quickly send SSA your signed SSA Form 1696.

Contact the DO or DDS and find out which Examiner has been assigned the case. Write a brief letter informing the examiner that you are the claimant's authorized representative. Attach a copy of the signed 1696. Also alert the examiner if there is additional evidence or new allegations on appeal.

If there's no new evidence, simply request copies of all current evidence-of-record. Ideally, the Examiner will forward this evidence to you prior to making a decision, giving you the opportunity to provide input - ***But don't count on it!*** Remember, the examiner wants to adjudicate the case as fast as possible, not get involved in more discussion and review. So *what do you do?*

If there's no new evidence on the appeal level, request the evidence-of-record and ask the Examiner to hold off on making a decision until you've had time to review the case. It

probably won't happen but at least you documented your attempt. Follow up every seven to fourteen days until you get the records.

Note: Social Security regulations prohibit the Examiner who performed the Initial Level review from handling the appeal.

Time to Appeal

If as the newly appointed representative, you find that the claimant has run out of time to request an appeal, you can request a “**good cause extension**” allowing you to make application. Here are some good reasons to ask for an extension of the sixty-day appeal period:

1. Claimant did not receive prior decision notice
2. Claimant is incompetent and unable to understand decision notice
3. Claimant was medically unable to respond to the notice
4. SSA's actions confused the claimant regarding the right to appeal
5. Claimant is hospitalized and unable to respond to notice
6. Representative never received the decision notice
7. Claimant is out of state and unable to apply
8. There was a death in the family of the claimant or representative
9. Important records were damaged or destroyed and have to be replaced

There are hundreds of good reasons why a person may miss the appeal deadline. SSA is liberal about accepting appeal extensions.

Social Security's First Appeal Level

The first Appeal level contact you'll have with SSA may be online, in person or by mail. If you use the mail, include a rebuttal letter indicating your disagreement with the previous denial decision. This is also an opportunity for you to inform SSA of any new impairments, medical sources or other evidence that may warrant a change of the prior decision. You can also submit questionnaires and ADL reports on appeal. Use an ADL report to support alleged limitations if this information is not already in the claimant's folder.

Once you have all necessary information and have submitted your argument, let SSA process the case without interference. Be sure you present any new impairments, evidence,

allegations, physical or mental restrictions that were not previously considered to the SSA staff person handling the case.

Adding additional impairments and/or physical limitations at the Appeal Level may trigger a reversal of the previous denial decision. It's your responsibility as the claimant's representative to see to it that SSA is aware of any changing factors.

Additional Evidence of Record

A discouraged claimant often won't approach SSA again for weeks after receiving a denial decision. Meanwhile he/she continues to see the doctor who is monitoring his condition. If the condition worsens or if a test or procedure shows a new serious disorder or limitation, this becomes additional supportive. Use the new developments to argue for a reversal of the previous denial. Take the initiative and get copies of the new evidence. Send them directly to SSA to cut processing time.

Prescription refills and other routine reports are usually not helpful on appeal so don't bother requesting this type of client data. Request any evidence showing new or worsening of a client's condition. Determine the importance of new or additional evidence in your client interview if possible. Your best chance to win at the appeal level occurs when you incorporate additional evidence that shows a decline in the client's condition or more serious symptoms. This is especially true when the prior denial was based on the claimant's presumed ability to adjust to other less demanding work.

Note: SSA allows a sixty-day window for appeal request regardless of case level. If you wait longer than sixty days, SSA will refuse the appeal request unless you provide **good cause** as discussed above.

Summation

In Lesson Four, we have given you some tips for creating good working relationships with SSA personnel. We have also focused on navigating SSA paperwork at the initial and first appeal levels.